IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

S.A.O. No.14 of 2005
Date of decision February 26, 2007

Bachan Singh and others

.....Appellants

Versus

Bant Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINEY MITTAL

Present:- Sh. J. S. Maanipur, Advocate
for the appellants.

Sh. R. N. Moudgil, Advocate
for the plaintiff-respondents.

****

Viney Mittal, J (Oral)

The plaintiffs are in appeal. They have challenged the order dated October 14, 2006 passed by the learned Additional District Judge, Rupnagar whereby on an appeal filed by the plaintiffs, the judgment and decree of the trial Court has been set aside and the case has been remanded back to the trial Court for a fresh decision of the controversy.

It appears from the record that a suit for spearate possession and partition was filed by the plaintiffs with regard to the suit property. The defendants had contested the aforesaid suit. They had challenged the title of the plaintiffs to claim partition and separate possession.

The learned trial Court held that since the property in question was agricultural land and therefore, only the revenue authorities had exclusive jurisdiction to partition the property in question. In these circumstances, the trial Court dismissed the suit filed by the plaintiffs in

view of the provisions of Section 158 of the Punjab Land Revenue Act.

The plaintiffs challenged the aforesaid judgment and decree of the trial Court by way of an appeal. The learned appellate Court noticed that as per the pleas raised by the defendants,a question of title arose for determination between the parties and as such, the aforesaid question of title could exclusively be determined by the Civil Court. On that basis the learned appellate Court has set aside the judgment and decree of the trial Court and remanded the case back to the trial Court for fresh decision, after framing the relevant issues and after providing opportunity to both the parties to lead the evidence.

After hearing learned counsel for the parties and after taking note of the observations made by the appellate Court, I am satisfied that the appellate Court has rightly observed that since a question of title had arisen for determination between the parties, therefore, only Civil Court can determine the said question and the bar contained under Section 158 of the Punjab Land Revenue Act was not applicable.

Consequently, I do not find that the order passed by the appellate Court suffers from any infirmity requiring interference by this Court.

The present appeal is accordingly dismissed.

Parties through their counsel are directed to appear before the trial Court on April 27, 2007.

A copy of the order be given dasti on payment of usual charges.

(VINEY MITTAL)
JUDGE

February 26, 2007
archana